

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

DAVID ALTOM,

Plaintiff,

CIVIL ACTION NO. 4:19-CV-00615-RWS

V.

ALLSTATE VEHICLE AND PROPERTY  
INSURANCE COMPANY, DUSTIN KING,

## Defendants.

## **ORDER**

Plaintiff David Altom filed this action in the 296th District Court of Collin County, Texas, on May 30, 2019. Defendant Allstate Vehicle and Property Insurance Company removed the case to the United States District Court for the Eastern District of Texas, and this Court referred the matter to the Honorable Kimberly C. Priest Johnson, United States Magistrate Judge, at Sherman, Texas, for consideration pursuant to the applicable laws and orders of this Court.

Altom has filed a motion to remand the action to state court. Docket No. 7. The Magistrate Judge recommends that the motion be granted because of the voluntary-involuntary rule, under which the case is not removable because the removal was not the voluntary act of Altom. Docket No. 18 at 9 (citing *River of Life Assembly of God v. Church Mutual Ins. Co.*, No. 1:19-cv-49-RP, 2019 WL 1767339, at \*4 (W.D. Tex. Apr. 22, 2019)).

The Court has considered the Report and Recommendation of the United States Magistrate Judge filed pursuant to the Court's referral order, along with the record and pleadings. No parties objected to the Report and Recommendation. Accordingly, Allstate is not entitled to *de novo* review by the District Judge of those findings, conclusions, and recommendations, and except

upon grounds of plain error, Allstate is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the Court. 28 U.S.C. § 636(b)(1)(C); *Douglass v. United Servs. Auto. Assoc.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

Nonetheless, the Court has reviewed the pleadings in this case and the Report of the Magistrate Judge and agrees with the Report of the Magistrate Judge. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants . . . .’”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)).

The Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is

**ORDERED** that the Motion to Remand is **GRANTED**. The above-captioned case is hereby **REMANDED** to the 296th Judicial District Court of Collin County, Texas.

**So ORDERED and SIGNED this 18th day of February, 2020.**

Robert W. Schroeder III  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE